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No. 76-1694

In the Supreme Court of the United States

OCTOBER TERM, 1976

MOBIL OIL CORPORATION, *Petitioner*,

vs.

HARRY LIGHTCAP and LELA LIGHTCAP, W. I. CUTTER, FERN ELLEN MAUPIN, RICHARD M. STEWART, HAROLD PARKER and FANNIE M. FLOWER, *Respondents*.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF KANSAS

REASONS FOR OBJECTIONS FOR WITHHOLDING CONSENT TO GRANTING OF MOTION OF NORTHERN DISTRIBUTOR GROUP FOR LEAVE TO FILE BRIEF AS AMICI CURIAE

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Eleven utility companies (Northern Distributor Group) have moved to file herein a brief as *amici curiae* in support of the Petition for Writ of Certiorari of Mobil Oil Corporation.

Respondents initially withheld their consent to such filing because they believed that the members of the Northern Distributor Group had no real interest in the

case, and did not and could not possess any facts, nor could present any legal arguments that would not be adequately presented by petitioner Mobil herein. Having read the motion, which verified respondents' suspicions, they continue to object because, to the extent that the motion does not merely parrot the arguments of Mobil, it promises only to interject irrelevant ratemaking and political issues not now before this Court.

I

Movant Has No Substantial Interest

Movant intimates that the decision of the court below will inevitably lead to higher service rates paid by Northern Natural Gas Company (Northern) to petitioner, which will inevitably lead to higher service rates for natural gas delivered by Northern to members of movant's utility group. Movant then hypothesizes that it, in turn, will charge higher service rates to distribution systems which are its customers. This plausible chain of rate adjustments will in no way adversely affect the members of movant's group who, on movant's theory, are mere conduits recovering their costs. Movant admits that it has no interest to be protected.

Movant then, in an effort to bolster its purported interest, suggests that the distribution systems will, in turn, make additional charges to the ultimate consumers. Although movant waves the banner of consumer protection, it was among the very persons whose activities in exploiting consumers required regulation of it under the Natural Gas Act. It is in no position to speak for the consumers. Even if it were, the consumers have no interest in this litigation, as we demonstrate in our Brief in Opposition.

II

Movant Does Not Propose to Make Any Relevant Arguments

Respondents' most urgent objection is that the motion addresses the wrong forum and at the wrong time. To the extent that movant's motion relates to rate matters, it should be presented to the Federal Power Commission or state regulatory authorities after completion of this Court's determinations. Granting of the motion will merely invite the interjection of irrelevant matters which will become relevant, if at all, only in such later proceedings before such administrative bodies. Whether Mobil should get current or future rate relief to reflect increased expenses resulting from its failure to pay its just debts nineteen years ago, together with interest resulting thereform, or whether Mobil's stockholders should bear this expense, is a matter for regulatory agency decision.

To the extent that movant promises to invite the Court, as it does in its motion, to consider the restructuring of traditional property and contract concepts, movant should address Congress or, more appropriately, a constitutional convention. The use of such language as "windfall" payments to describe real property rights, guaranteed by our Constitution as it now exists, amply demonstrates the wholly non-judicial character of movant's objectives. The Court, in our view, should not favorably respond to such a blatant effort to interject improper considerations into a common law lawsuit for the recovery of rent.

CONCLUSION

Although movant's language is couched in legal phraseology and although its motion has demonstrated that it is a friend of petitioner, we think that it has clearly shown that it will not be a friend of the Court, willing to address itself to the legal issues actually before this Court. We respectfully urge that this Court refuse to serve as a forum for movant's polemics and that the Court deny the motion.

Respectfully submitted,

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